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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,974	03/31/2004	Mark G. Diller	MIDTF / 373P2	8640
26875	7590	12/20/2005	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			TRETTEL, MICHAEL	
		ART UNIT	PAPER NUMBER	3673
DATE MAILED: 12/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/814,974	DILLER ET AL.	
	Examiner Michael Trettel	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 September 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,4-19 and 21-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1,2,4-12,19,21-25 and 27-32 is/are allowed.
- 6) Claim(s) 13-18,26 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 13 to 18 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Krebs et al (US 5,340,953). Krebs et al shows a foot switch controller 24 for use with a dental chair 10 that has an adjustable backrest 14 and seat 12. The foot switch 24 comprises a base 34, a membrane type switch assembly 36 that includes multiple switch contacts 36a to 36m, a housing cover 26 with a pair of apertures 58, 60, and a pair of footpads 28, 30 used to control the switches defined by contacts 36a-36m. Each footpad is made from an elastomeric material (column 5, line 1) and is exemplified in footpad 30 as a circular body with peripheral lips 30a, 30b which define a peripheral groove 70. A bellows forms an edge of the footpad and seals it within the mating aperture formed in the housing 26. Four downwardly projecting contact points 30e-30h extend from an underside of the footpad and engage complementary contacts 36h-36m formed on the membrane switch 36. Since each footpad is made from an elastomeric material it can be considered to be flexible, with the contact points forming switch actuators. The footpad 28 is used to control the overall position of the chair by setting the inclination of the backrest and controlling the height of the chair. The footpad 30 is programmable as detailed in column 7, lines 10 to 24 to store at least four programmed positions for the chair. When actuated by foot pad 30, the chair moves from the position it is in to the position selected. Note that these positions are set by the chair operator, and could include movement from a work position (such

as a fully declined backrest and raised height) to an upright sitting position that would allow a patient to easily leave the chair.

Response to Amendment

Applicant's arguments filed September 23, 2005 have been fully considered but they are not persuasive. The examiner has addressed the argument offered with respect to claim 13 in the body of the rejection above. The examiner has reviewed the applicant's arguments with respect to claims 1 and 19 and is in agreement with them. The rejections of these claims over the prior art has been removed, and the claims are now indicated as being allowable.

Allowable Subject Matter

Claims 1, 2, 4 to 12, 19, 21 to 25 and 27 to 32 are allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

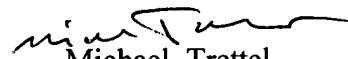
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is (571) 272-7052. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (571) 272-7052. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Michael Trettel
Primary Examiner
Art Unit 3673